



TOWN OF TEWKSBURY BOARD OF HEALTH

Raymond Barry, Chairman
Charles Roux, Vice Chair
Christine Kinnon, Clerk
Kathleen M. Brothers
Phillip L. French

DEPARTMENT OF COMMUNITY DEVELOPMENT

MEETING MINUTES March 17, 2016

The meeting was called to order by Raymond Barry, Chairman, at 6:00 p.m. at the Tewksbury Town Hall. Present at the meeting were Charles Roux, Vice-Chairman, Christine Kinnon, Clerk, and Kathleen Brothers. Also present was Susan Sawyer, Director of Public Health.

Phillip French was not in attendance.

Approval of Meeting Minutes – January 21, 2016 and February 18, 2016

Mr. Barry noted that he has made some grammatical corrections to the January 21, 2016 meeting minutes and reviewed some of the changes.

MOTION: Ms. Brothers made the motion to approve the January 21, 2016 meeting minutes as amended; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

Ms. Brothers and Mr. Barry both noted grammatical corrections to the February 18, 2016 meeting minutes.

MOTION: Mr. Roux made the motion to approve the February 18, 2016 meeting minutes as amended; seconded by Ms. Brothers and the motion unanimously carried 3-0-1. Ms. Kinnon did not take part in this vote as she was not present at the February 18, 2016 meeting.

Continued Public Hearings

Public Hearing to obtain a variance of the Tewksbury Board of Health regulations Chapter 7 Dumpsters Section 7.7 Enclosure Subsection 7.7.1 Dumpster shall be enclosed on all four sides with a 6' fence and servicing door.

Located at 875 East Street, Tewksbury, MA

Applicant: Demoulas Super Markets, 875 East Street, Tewksbury, MA

This matter was postponed to the next Board of Health hearing on April 21, 2016 at 6:00 p.m.

New Public Hearings

MOTION: Ms. Brothers made the motion to open the public hearing on the Board of Health Tobacco Regulations; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

Mr. Barry read the public notice aloud.

Public Hearing on proposed changes to regulations governing tobacco sales. Proposed amendments include, but are not limited to, the following: to raise the minimum legal sales age from 18 to 21, restrict the sale of flavored tobacco, cigars and blunt wraps, ID all customers under the age of 40.

- **Chapter 11 Tobacco Control - Restricting the Sale of Tobacco Products and Nicotine Delivery Products**
- **Chapter 12 Tobacco Control - Prohibiting Smoking in Workplaces and Public Places**

Mr. Barry noted that Ron Beauregard is present and has been working with the Board of Health on the tobacco regulations. Mr. Beauregard noted that he is happy to serve with the Tewksbury Board of Health as well as 7 other communities' Boards of Health.

Mr. Barry explained that the Town of Tewksbury has two tobacco regulations, Chapter 11 and Chapter 12, and contacted Mr. Beauregard for assistance in combining the two regulations into one.

Mr. Barry requested anyone in opposition of the regulations come forward to speak.

Neetal Shah of 1875 Main Street, The Tobacconist, came forward. Mr. Shah noted that he is opposed to changing the age from 18 to 21. He does not feel it is right for Tewksbury and that it will have an impact on sales.

Ms. Brothers asked where Mr. Shah's business is located and Mr. Shah noted that he is the owner of the Tobacconist located at 1875 Main Street (at the intersection of Main Street and Livingston Street). Mr. Roux noted that it is already 21 plus and Mr. Shah noted that his business is 18 plus.

Mr. DJ Wilson, Tobacco Control Director at Mass Municipal Association, explained that he has been working with Mr. Beauregard. There is currently a Bill before Senate that will raise the sale of tobacco to the age of 21 and also ban the sale of tobacco at pharmacies and vending machines.

Ms. Kinnon asked what neighboring towns have done this. Mr. Beauregard replied that Andover, Wilmington, Lawrence, Methuen, North Andover, Chelmsford, Westford have each increased the legal sales age to 21, but the City of Lowell has not yet.

Joe Silva of Dracut, MA came forward and noted that he has been the owner of Oakdale Liquors (located at 1900 Main Street) for (the past) 14 years and noted that he is opposed to this and suggested the town wait until the State takes action on this. He is a nonsmoker, but feels that an 18 year old should be able to make their own decisions so long as it is legal. Massachusetts already loses businesses to New Hampshire based on sale prices.

Mr. Satigh Patel came forward and noted that he owns two (Petroil) gas stations in town and his concern is that he is opposed to the language that states tobacco can only be sold at locations where 21 plus can enter as this limits what he can sell and is unfair that some stores can sell certain things and other cannot. Mr. Wilson explained that these facilities are also unable to sell food or gas like a gas station. Mr. Patel noted that he feels he should still be able to sell all products as he has been. Mr. Wilson explained that there are studies that prove that the flavor and scented products are more attractive and in addition, the customers that go to convenience stores and gas stations are under 18. Mr. Patel noted that this will impact him greatly and he is going to lose money.

Mr. Petere Acconcin of 121 Germano Drive, Tewksbury came forward and noted that he has been a resident of Tewksbury for 25 years. He explained that the State and Government are good at telling Boards that tobacco companies market to underage people. He already goes to New Hampshire to buy alcohol and feels bad for the Massachusetts liquor stores as they are now being restricted even further as well as the convenience stores. Studies show that the largest sales for these types of businesses are lottery and tobacco. He is in the cigar business and feels that people should be allowed to make their own choices by the time a person reaches the age of 18 as they have been exposed to significant education on tobacco. He also discussed the massive amount of different flavored alcohol and the likelihood of marijuana becoming legal within the next six months, and suggested a compromise with the businesses and let them sell what they want.

Mr. Peter Welli came forward and noted that he is the owner of Save on Smokes located at 2324 Main Street. Mr. Welli stated that he has already had to turn away customers and tell them to leave as they were underage. He felt that the changes will impact sales and people will just go to areas where it is allowed and it is not going to stop them. If Massachusetts is going to be changing anyway, why not wait until they do, so all communities will have the same laws and rules. At 18, you are considered an adult and can vote for president, and thus you should be able to decide if you want to smoke or not too.

George Ferdinand of 56 Pratt Street came forward and noted that on issues such as this proves why elections matter and noted that his opposition is that in a few weeks there could be two new members on the board and suggested waiting as they should be allowed a say in this.

Mr. John Sargeant came forward and noted that he operates Tewksbury Mobil at 940 Andover Street and noted that he opposes raising the age of sales as well as eliminating the flavored cigars. Increasing prices will not decrease sales as people will just go elsewhere to buy.

Mr. Wilson explained that there are also studies that show that increasing cigar prices has decreased sales. In addition, when compared tobacco to alcohol, food, etc. physicians never say

tobacco in moderation is ok and they do with the other items. Tobacco is never good and never something that is recommended. Proposed changes are not being done due to a hatred of the tobacco industry but as the result of research and studies that have been conducted.

Mr. Barry requested anyone present who is in favor of this to come forward if they would like to speak.

Mr. Wilson explained that he provided the Board Members with a list showing the cities and towns that have increased the age from 18 to 21 and there are 121 communities who have done this since 2005 and that it has been easy to enforce and the State will provide signage for this. A minimal price for cigars was first put in place in Boston in 2012 and there are now 119 communities who have put this into effect. It had been determined that \$2.50 was a good price to deter underage purchases. Original policy did allow for four packs or larger being sold to be sold at market rate; however, they have seen stores selling at lower rates. As shown on the third page, in 2009 the FDA banned the sale of flavored cigarettes like Caribbean Breeze, etc. as they felt it was targeting younger kids as studies show kids are attracted to the flavored products.

Diane Knight, R.N., Director of the Northeast Tobacco Free Partnership, a Department of Public Health program, came forward and stated that she supports the age increase as well as the increase of sale price in cigars to \$2.50 and \$5.00 for multipacks. Ms. Knight added that over 90% of adult smokers started before the age of 18. Flavored cigarettes are targeted towards young people such as cotton candy and bubble gum and are sold in colorful packages and are available at convenience stores and gas stations. Her concern is the safety and health of the youth today.

MOTION: Ms. Brothers made the motion to close the public hearing; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

Raise age for Tobacco Sales to 21

Ms. Brothers explained that the Board has worked tirelessly on the regulations and have researched this matter at length and noted that she supports increasing the sales age to 21.

Ms. Kinnon noted that she was in favor of this when it was brought forward years ago and is still in favor. Ms. Kinnon further stated that the Board has been looking at updating this tobacco regulation with Mr. Beauregard for over three years now. With the mounting scientific and medical evidence about the negative impacts of smoking by underage youth, the Board felt that now was the time to take action.

Mr. Roux noted that he was opposed to this change previously; however, his concern is that there are many kids that are 18 years old and are on high school grounds or spending time with high school kids. Mr. Roux feels that the goal is to keep these products out of the hands of the high school kids and restricting the age will certainly help.

Mr. Barry noted that the Board has always tried to view its regulations with a balance between the potential economic impact verses the health impact. The Health Department and Board of Health are charged with the responsibility of protecting the health and wellness of the community. Unfortunately, this may have some economic impacts at times; however, the focus

should still remain on the overall health and wellness impacts. The goal of increasing the legal sales age to 21 is to stop people that are underage from smoking as often times they are not considering the long term impacts of their decisions at this age. Mr. Barry noted that he is in favor of raising the age to 21 based on the health benefits.

Ms. Kinnon read a letter of support from the American Heart Association aloud and agreed that the health benefits should be the first consideration.

Increase Identification Age to 40

Mr. Barry noted that the carding age is currently 27 years old and explained that increasing the age to 40 will help sales associates address the issue of who they should card. Discussion took place on many high school students looking older than their age. Mr. Beauregard noted that there are also some stores who have their own policies to card up to age 40.

All members stated that they support this revision.

Single Cigar Restriction

Mr. Barry explained the concern is the young kids who are getting enticed to flavored products and it is affordable for them.

All members stated that they support this revision.

Prohibit some flavored tobacco sales

Mr. Barry explained that the intent is not to ban the sale of these products, but to limit the sale to certain establishments. The goal again is to keep these products from being so easily accessible to younger people.

All members stated that they support this revision.

Prohibit Sales of some Blunt Wraps

Mr. Barry explained that again this would limit the sales (of blunt wraps) to tobacco shops and not ban the sale all together. Ms. Brothers asked if convenience stores currently sell blunt wraps and Mr. Beauregard noted that most do as well as some liquor stores. Ms. Brothers suggested leaving this language as is and if they are currently allowed to be sold in convenience stores that should remain. After a brief discussion on how underage youth use blunt wraps by Mr. Beauregard, Ms. Brothers agreed with limiting the sale of blunt wraps to tobacco shops.

All members stated that they support this revision.

Violations

Mr. Barry explained that the only revision to the Violations Section was the additional requirement for a first violation of a mandatory appearance before the Tewksbury Board of Health to explain the plan he or she has developed to avoid additional violations but they would also have to come before the Board on the first offense to ensure they are aware of the consequence of future offenses.

Mr. Barry suggested additional edits including, but not limited to: removing the wording of prohibition and changing this to “the sale of blunt wraps” and correcting the paragraph numbering

MOTION: Ms. Kinnon made the motion to approve the edits to Chapter 11 as discussed; seconded by Ms. Brothers and the motion unanimously carried 4-0.

MOTION: Ms. Brothers made the motion to approve the revisions to the Tewksbury Board of Health regulations currently entitled Chapter 11 Tobacco Control – Restricting the Sale of Tobacco Products and Nicotine Delivery Products; which will now be entitled Chapter 11 – Restricting the Sale of Tobacco Products. The new regulations shall have an approval date of March 17, 2016 and an implementation date of June 1, 2016; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

MOTION: Ms. Brothers made the motion to rescind the Tewksbury Board of Health regulation entitled Chapter 12 Tobacco Regulations - Prohibiting Smoking in Workplaces and Public Places as of May 30, 2016 as its concept has been incorporated into the newly revised and improved Chapter 11 - Restricting the Sale of Tobacco Products; seconded by Ms. Kinnon and the motion unanimously carried 4-0.

Discussion

Regulation review sub-committee – discussion over the establishment of board subcommittees to review various regulations and offer recommendations to clarify issues regarding, but not limited to, trash dumpsters, grease traps, the keeping of animals, etc.

Mr. Barry explained that in his discussions with Ms. Sawyer they decided it would be beneficial to break off into sub groups to discuss the matters and bring any revisions or updates back to the Board. This matter will be discussed further at a future meeting.

Announcements:

Ms. Sawyer provided documentation on mosquito control and the multiple ways they can be controlled.

Ms. Sawyer noted that the Wellness Fair will be held with the Bike Safety Rodeo this year and many are excited for this change. The fair and rodeo will be held on Sunday, June 5, 2016 and is free of charge. Officer Jennie Welch can be contacted for additional details.

Discussion took place on the events held at the Public Health Museum and Ms. Sawyer provided a schedule of the events to the members.

Ms. Kinnon noted that tonight is her last meeting and that has been happy to serve on the Board. Ms. Kinnon wished the Board best of luck with the new members. Ms. Brothers thanked Ms. Kinnon for her service to the town. Mr. Barry presented Ms. Kinnon with a Certificate of Appreciate for her years of service on the Board of Health.

Adjourn

MOTION: Ms. Kinnon made the motion to adjourn at 8:15 p.m.; seconded by Ms. Brothers and the motion unanimously carried 4-0.

Approved: April 21, 2016